REMARKS

Claims 9-20 are pending in the application (the "Application").

Claims 9-20 have been rejected.

No claims have been allowed.

Claims 1-8 have been previously cancelled.

Claims 9, 12 and 13 have been amended.

Claims 9-20 remain in the application.

All arguments from previous amendments and responses are incorporated by reference and reiterated herein. Reconsideration of the claims is respectfully requested.

Priority

A first sentence of the patent application has been added to establish that the present patent application claims priority as a continuation patent application of United States Patent Application Serial No. 09/389,177 that was issued as United States Patent No. 6,631,995 on October 14, 2003.

Claim Rejections -- 35 U.S.C. § 102(b)

In the Office Action of March 12, 2004 the Examiner rejected Claim 9 under 35 U.S.C. § 102(b) as having been anticipated by United States Patent No. 5,675,391 to *Yamaguchi et al.* (hereinafter "*Yamaguchi*"). The Examiner also rejected Claims 9-20 under 35 U.S.C. § 102(b) as having been anticipated by United States Patent No. 5,717,422 to *Fergason*. In response, the Applicants have amended Claims 9, 12 and 13.

It is axiomatic that a prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131. *See, In re King*, 231 USPQ 126, 138 (Fed. Cir. 1986) (citing with approval, *Lindemann Maschinenfabrik v. American Hoist and Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984)); *In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131. *In re Donohue*, 766 F.2d 531, 534, 226 USPQ 619, 621 (Fed. Cir. 1985).

The Examiner stated that "In reference to Claim 9, Yamaguchi et al. discloses a method of generating a desired image, comprising: analyzing a first image; first adjusting said first image to a desired contrast to form a second image; and second adjusting said second image for a desired brightness to form said desired image, col. 2 line 64 - col. 3 line 7." (March 12, 2004 Office Action, Page 2, Lines 18-21).

The Applicants respectfully submit that amended Claim 9 is not anticipated by the *Yamaguchi* reference because the *Yamaguchi* reference does not teach the claim element of "analyzing a first image to determine a desired brightness and a desired contrast for said first image." As shown in Figure 1 of *Yamaguchi* the signal that represents a video image that is input to contrast adjuster 74 is not analyzed. It is simply provided directly to contrast adjuster 74 from superimposer 73. In particular, there is no analysis of the video image to determine a desired brightness or a desired contrast for the video image. For this reason, the Applicants respectfully submit that amended Claim 9 is not anticipated by the *Yamaguchi* reference.

The Examiner also stated that "Claims 9-20 are rejected 35 U.S.C. 102(b) as being anticipated by Fergason (US 5717422)." (March 12, 2004 Office Action, Page 2, Lines 22-23). The Applicants respectfully submit that Claims 9-20, as amended, are not anticipated by *Fergason* for the reasons set forth below.

The Applicants respectfully disagree with the Examiner's assertions regarding the subject matter disclosed in the *Fergason* reference. The Applicants respectfully submit that the *Fergason* reference does not show each and every limitation of the Applicants' invention. The Applicants direct the Examiner's attention to Claim 1, which contains unique and novel limitations:

> 9. (Currently amended) A method of generating a desired image, comprising:
> analyzing a first image to determine a desired brightness and a desired contrast for said first image;
> first adjusting said first image to said desired contrast to form a second image; and
> second adjusting said second image for said desired brightness to form said desired image. (Emphasis added).

The Examiner stated that "In reference to Claim 9, Fergason discloses a method of generating a desired image, comprising the acts of analyzing a first image, ref. 6, adjusting the first image to a desired contrast to form a second image and adjusting the second image for a desired brightness to form the desired image, col. 3 line 66 - col. 4 line 36." (March 12, 2004 Office Action, Page 3, Lines 1-4).

The Applicants respectfully submit that amended Claim 9 is not anticipated by the *Fergason* reference because the *Fergason* reference does not teach the claim element of "adjusting the first image to a desired contrast." The *Fergason* reference clearly shows that there is no adjustment of contrast. There is only a maintenance of contrast, with adjustments of brightness. (*Fergason*, Column 4, Lines 26-34). The Examiner has stated his belief that this is an improper interpretation of *Fergason*. (March 12, 2004 Office Action, Page 4, Line 19). However, the Applicants respectfully submit that the Applicants' interpretation of *Fergason* is a correct interpretation based on the clear teachings of the *Fergason* reference.

This may be seen by referring to the prior art method disclosed by *Fergason* in which a

reduction in the number of pixels reduces the contrast of a displayed image. (*Fergason*, Column 1, Lines 31-37). *Fergason* does not reduce the number of pixels, and therefore does not reduce the contrast of the displayed image.

Fergason states: "The computer control 5 is operative to compute the brightness information of a particular image or scene and in response to such computation to control the intensity or brightness of the light source 2. While intensity or brightness of the light source is controlled in this manner, the computer control 5 operates the liquid crystal display 3 to modulated light without having to reduce the number of pixels used to transmit light." (*Fergason*, Column 4, Lines 1-9) (Emphasis added). It is clear that *Fergason* maintains (i.e., keeps constant) the value of contrast ratio.

For example, Fergason states: "From the foregoing, then, it will be appreciated that the apparatus 1, including the computer control 5, is operative to control or to adjust the brightness of a scene without degrading the contrast ratio. Thus, the same contrast ratio can be maintained while brightness of a scene or image is adjusted." (*Fergason*, Column 4, Lines 26-31). There is no discussion of changing or adjusting the contrast ratio in *Fergason*.

The Examiner stated that "Therefore, Fergason's preferred method is not to lower the transmittance of the light modulation panel but instead to increase it and thereby producing a better contrast, col. 4 lines 5-9." (March 12, 2004 Office Action, Page 4, Line 22 to Page 5, Line 2). The Applicants respectfully submit that the cited portion of *Fergason* does not support the conclusion that *Fergason* teaches "producing a better contrast." *Fergason* teaches adjusting the

brightness of an image while keeping the same level of contrast (i.e., a constant value of contrast ratio).

For these reasons, the Applicants respectfully submit that amended Claim 9 is not anticipated by the *Fergason* reference.

Claims 10-18 depend directly or indirectly from amended Claim 9. The Applicants respectfully submit that Claims 10-18 contain the limitations of amended Claim 9 and are now in condition for allowance.

Claim 19 is directed to a method for producing an output image having a desired contrast and a desired brightness. The method of Claim 19 adjusts a modulator to obtain a desired contrast. The *Fergason* reference does not disclose this step and therefore does not anticipate Claim 19.

Claim 20 is directed to an image producing device that produces an output image having a desired contrast and a desired brightness. The device of Claim 20 adjusts a modulator to obtain a desired contrast. The *Fergason* reference does not disclose this feature and therefore does not anticipate Claim 20.

Therefore, the Applicants respectfully request that Claims 9-20, as amended, be passed to allowance. The Applicants respectfully deny any position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. The Applicants reserve the right to submit further arguments in support of the Applicants' above stated position, as well as the right to introduce relevant secondary considerations including long-felt but resolved needs in the industry, failed attempts by others to invent the invention, and the like.

SUMMARY

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at ***wmunck@davismunck.com***.

No fees are believed to be necessary. However, in the event that any fees are required for the prosecution of this application, please charge any necessary fees to Davis Munck Deposit Account No. 50-0208. No extension of time is believed to be necessary. If, however, an extension of time is needed, the extension is requested and please charge the fee for this extension to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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